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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,121	01/16/2001	Robyn R. Levine	END920000173US1	2906

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EXAMINER

RETTA, YEHDEGA

ART UNIT PAPER NUMBER

3622

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/761,121

**Applicant(s)**

LEVINE, ROBYN R.

**Examiner**

Yehdega Retta

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-18 and 20-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-18 and 20-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This office action in response to Request for Continued Examination (RCE) filed February 15, 2005. Claims 1 and 21-23 have been amended. Claims 1-9, 12-18, 20-23 are currently pending.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 recites the limitation "the method of claim 11, wherein said baseline parameter is a block or group". There is insufficient antecedent basis for this limitation in the claim. Claim 12 currently depends on claim 11, which is canceled.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

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reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-3, 6, 9, 12-18, 20-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Roberts et al. U.S. Patent No. 6,101,486.

Regarding claims 1-3, Roberts teaches determining point of contact constraints of user (see col. 5 lines 25-40); retrieving a profile and current action of user, which is grouped to presenting a lifestyle or lifestage view of user (see col. 6 line 60 to col. 7 line 16) and delivering content (opportunity) to user, delivered to the user based on the point of contact, profiled past and current action; wherein the point of contact comprises of computer, set top or television with Internet access; (see fig. 3&4, col. 4 lines 24 to col. 5 lines 40, col. 6 lines 12 to col. 7 line 46). Robert teaches delivering an opportunity to user by creating a vision of a supplier's core competencies based on constraints of said point of contact and profiled past and current action (personalized or customized information message) (see col. 6 line to col. 7 lines 10), consistent with the vision by merging together and optimizing said vision with the suppliers channel awareness (providing voice communication with the customer (see col. 5 line 25 to col. 6 line 11).

Regarding claims 6, 9 and 12-17, Roberts teaches profile including demographic data; layered demographic profile; block or group (see col. 4 lines 33-67); wherein the profiled past includes data generated by data-mining of navigational and transaction information or user submitted data or purchased data or combination thereof (see col. 5 line 65 to col. 6 line 13); current action including transaction including of listings of purchases or payment; current action

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including click-stream data such as page hits, sequence of hits, duration etc., (see col. 4 lines 33-44, col. 5 lines 1-24 and col. 6 line 36 to col. 7 line 9).

Regarding claim 18, Roberts teaches sending a personalized web page to user (see col. 2 line 60 to col. 3 line 10, col. 6 lines 12-35, col. 7 lines 10-17).

Regarding claim 20, Roberts teaches delivering a take action opportunity (see 4 lines 44-67, col. 5 lines 55 to col. 6 line 11).

Claims 21-23 are rejected as stated above in claim 1.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. U.S. Patent No. 6,101,486 further in view of Lee et al. U.S. Patent No. 6,829,475.

Regarding claims 4 and 5, Robert does not teach point of contact constraints includes a location indication including GPS system coordinates. Lee teaches GPS receiver 110 that continuously reports the vehicle's longitude, latitude and altitude, location indication and providing advertisements (col. 11 line 60 to col. 12 line 3). Lee teaches providing mapping services to the vehicle showing travel routes or locations of interest and coupled with the advertising database drivers can see map locations related to recent advertisements and get navigation guidance to these locations. For example, the driver could get directions to the nearest chain restaurant

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whose commercial just played offering a lunch special. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a location enhanced advertisement or opportunity, as in Lee, in Robert's customized marketing message in order to provide the advantage taught by Lee.

Regarding claims 7 and 8, Roberts does not explicitly teach anonymous demographic data supplied by third party. Official notice is taken that is old and well known to acquire user's anonymous demographic profile from a third party, such as ISP. It is well known for third party to provide information without compromising the privacy of users. Therefore, it would have been obvious to one ordinary skill in the art to supply anonymous data, since users are hesitant to provide their information to third parties for privacy reasons.

### *Conclusion*


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**RETTA YEHDEGA**  
**PRIMARY EXAMINER**

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